

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with)	
Enhanced E911 Emergency Calling Systems)	
)	
Phase II Compliance Deadlines for Non-)	
Nationwide CMRS Carriers)	

To: Wireless Telecommunications Bureau, Policy Division

**SOUTHERN ILLINOIS RSA PARTNERSHIP
D/B/A FIRST CELLULAR OF SOUTHERN ILLINOIS
REPLY TO COMMENTS OF NENA, APCO AND NASNA**

Southern Illinois RSA Partnership d/b/a First Cellular of Southern Illinois ("First Cellular"), by its attorneys, hereby replies to the Comments of The National Emergency Number Association ("NENA"), the Association of Public-Safety Communications Officials-International, Inc. ("APCO") and the National Association of State Nine One One Administrators ("NASNA") (collectively referred to as "Commenters"), challenging First Cellular's petition for a temporary waiver of Section 20.18(f) of the Commission's rules and an extension of the deadlines to implement Phase II of Enhanced 911 ("E911") services ("Petition").

The Petition demonstrates that First Cellular is a small, rural cellular carrier that desires to deploy Phase II service as quickly as possible. First Cellular chose to implement a network-based solution so that all subscribers and roamers would receive the benefits of location technology without regard to the age or nature of their handsets.

The Petition sets forth the chronology of First Cellular's diligent attempts to secure a contract with a vendor of network-based technology, first to gain their attention and later to deal

with a switch incompatibility problem that surfaced after First Cellular signed a vendor's contract in February of 2003, only to find out in May that True Position would not execute its own proposal.

First Cellular has communicated continuously with Public Safety Answering Points ("PSAPs") after receiving their Phase II requests, and none has opposed First Cellular's proposed implementation schedule. Indeed, the overwhelming majority of the PSAPs in First Cellular's service area are not presently capable of receiving and utilizing Phase II data.

Reluctantly, First Cellular requested an extension of the deadline, up to 24-months, because of the need for resolution of technical compatibility issues. The time actually needed will be as brief or as long as it takes for a network-based system vendor to adapt its product to the Motorola switch employed in First Cellular's system.¹ First Cellular filed its Petition in advance of its impending deadlines, and presented a proposal focused and limited in scope, with a clear path to compliance.

Commenters begin their critique of the First Cellular Petition by reference to the company's representation on the Rural Cellular Association ("RCA") Board of Directors. The point of that reference is not immediately apparent, but Commenters have misinterpreted the limitations on RCA membership. No voting member of RCA or Director of RCA is a Tier II

¹ Commenters' remark that "waiver petitions have appeared on the FCC's doorstep like autumn leaves" [page 3, fn. omitted] is a function of their own persistent opposition to general timeline relief for small wireless carriers that face similar deployment obstacles. Absent further general relief, whether by category of problem or size of carrier, individual carriers had no choice but to file individual petitions, each presenting the carrier's individual circumstances and plans for compliance. Commenters' suggestion that the timing of petitions was "disrespectful" overlooks the fact that mixed signals were being received by small carriers concerning prospects for general relief. Once it appeared that general relief was unlikely, individual waiver requests were submitted.

carrier, and First Cellular easily qualifies as a Tier III carrier.² While the Commenters may have a concern with the breadth of the FCC's adopted definition of Tier III carriers, First Cellular squarely fits within the definition, and is well below the 500,000 subscriber threshold established in 2002.³ Furthermore, First Cellular does not base its request for relief on its status as a rural, Tier III carrier or as a member of RCA. Its request is fact based, narrowly drawn and timely presented.

Commenters appear to recognize that First Cellular's impediments to E911 Phase II implementation are technical, having to do with compatibility with a Motorola switch. Yet Commenters find it necessary to refer to a letter filed with the Commission on behalf of RCA that attempted to aid the Commission in recognizing categories or "buckets" of common problems faced by rural carriers. One such category suggested for recognition involved the lack of a working E911 Phase II network-based product for Motorola switches. Commenters seem to imply that RCA and First Cellular are conspiring to forestall the initiation of a valuable public benefit. In fact, nothing could be farther from the truth. RCA serves its members effectively when it provides information to the Commission about its nearly 100 regular members that are all small, Tier III carriers. Identification of categories of problems faced by small carriers can assist the agency on policy issues and allow the Commission to utilize its resources efficiently, perhaps on some issues not needing to receive separate waiver petitions from dozens of carriers

² Citing First Cellular's membership in the, Commenters curtly observe, "First Cellular could grow seven-fold into other markets and remain a Tier II member of RCA." (Comments, p. 3) Quite the opposite is true with respect to participation as an active, voting member of RCA and not as an "affiliate" member. In any event the relevance of Commenters' remark is unexplained, unless it is meant to imply that First Cellular and other members of RCA are not truly small or rural, and are not entitled to special consideration or relief.

³ *Order to Stay*, CC Docket 94-102, FCC 02-212, released July 26, 2002.

with similar compliance problems. For Commenters to single out First Cellular's petition for criticism after RCA had already identified the Motorola issue is especially puzzling.

Commenters criticize First Cellular's communications with the local PSAPs as "belated," and they characterize as "forked" First Cellular's discussion of alternative paths to compliance in the event that the preferred choice is not successful.⁴ First Cellular considered as an alternative the deployment of a handset-based solution in the spirit of service as a backup plan to achieve compliance *if necessary*. Having a clear path to compliance, and having Plan A plus Plan B, are not mutually exclusive concepts. Yet Commenters are critical of all good intentions. Their questioning of First Cellular's motives makes it appear that First Cellular lacks integrity and has no intent ever to provide Phase II services.

Commenters even cast First Cellular's plan to proceed with Phase II ahead of PSAP funding as a mere ploy to evade required *Richardson* procedures for challenging the validity of the PSAPs' requests.⁵ In fact, the reason First Cellular is not challenging the PSAPs' requests is that First Cellular has a sincere desire and intent to deploy Phase II at the earliest opportunity. First Cellular is aware of the PSAPs' funding status; it stays abreast of that among many matters on the road to Phase II reality. Despite Commenters' aspersions, First Cellular will continue its habit of regular exchange of information with the PSAPs, oral and written, and its positive support of PSAPs' efforts, with or without invoking the *Richardson* procedures.

⁴ Comments, p. 4.

⁵ Comments, p. 5.

Attached to the Comments is a statement that Commenters obtained from one of the PSAP officials in First Cellular's service area.⁶ The statement reiterates a concern expressed by "First Cellular and other smaller rural carriers" in Illinois that new state funding measures will not account for carrier expenditures incurred prior to January 1, 2004. To the common senses this seems a reasonable concern, but Commenters note the statement in support of a claim that "First Cellular must support more fully its claim that Williamson and the other counties cannot pay for PSAP upgrades." The official's statement goes on to disclose that he has "been patient" with First Cellular and others because he (the PSAP) has not been ready for Phase II. Commenters use the statement, incredibly, to argue that First Cellular's petition for relief is inadequately supported. They assert that First Cellular must submit documentation from each of the relevant PSAPs, presumably to describe each PSAP's individual situation.

Commenters actions belie their intent to seize upon First Cellular's slightest move, to exaggerate any circumstance into a problem, pronounce every step as a shortcoming, and jeopardize First Cellular's good relations with local safety personnel. This is a dangerous strategy, considering the Commenters' power of persuasion over local safety officials. NENA, APCO and NASNA should refrain from wrongfully discounting First Cellular's efforts to deliver Phase II services and from pursuing any overarching commitment to discourage PSAPs from dealing cooperatively with small, rural carriers. First Cellular, for its part, has presented its Petition to the Commission months ahead of PSAP readiness, and it has been fully forthcoming

⁶ Comments, Attachment A, Statement of Ken Smith, Williamson County, Illinois 9-1-1.

with the PSAPs. First Cellular will deploy Phase II services as soon as it is achievable, not a day later.

Both First Cellular and the PSAPs seek to promote the safety of persons inside First Cellular's service area as quickly as possible. First Cellular has eschewed plans that would delay Phase II service or limit it to those with the newest, most sophisticated handsets. Despite a series of hurdles in communicating and contracting with vendors First Cellular has not been deterred and instead has embraced Phase II as a remarkable public service that it will be proud to offer to its customers and roamers. First Cellular has pursued the Phase II vendors, insisting upon timely performance and constant updates from them on progress in rendering First Cellular's system Phase II compliant. Commenters' unjustifiable implication that First Cellular is shirking its duties is counterproductive, insulting and potentially harmful to First Cellular's relationships with its PSAPs.

Commenters go so far as to suggest that First Cellular is planning to fail to achieve accuracy standards, and will seek further relief upon implementation of a network-based Phase II design⁷. One must ask what Commenters know that is unknown to First Cellular. Perhaps Commenters are aware of accuracy limitations common to network-based Phase II technologies that are deployed in a configuration as will be the case in First Cellular's area. If so they should share their findings. Stakeholders will benefit from knowing what accuracy standards are achievable in rural areas under the circumstances present in First Cellular's area. First Cellular will not know its own accuracy levels until the system is installed, working and tested.

⁷ Comments, p. 4.

Downplaying First Cellular's individual circumstances, Commenters repeatedly identify the company with the small wireless carriers' association. Commenters note that RCA has proposed that Phase II accuracy levels in rural areas may be conducive to a standard less precise than in urban areas. RCA's proposition is quoted by Commenters as a reason to be wary of First Cellular's proposed implementation schedule.⁸ The exact connective reasoning is not explained. The insinuation is unmistakable.


It rings strangely odd that Commenters would vociferously challenge First Cellular's petition. First Cellular has a concrete plan for compliance. It filed well in advance of its deadline. It has a productive relationship with its PSAPs, some of whom are still gearing up for Phase I services. And it has its own incentive for wanting to offer Phase II services as soon as possible. First Cellular is the target of attack because it is small and rural, and Commenters fear that rural carriers as a group will deliberately shirk from their obligations. Commenters' tactic is unfounded and discriminatory. Worse, it may as much inhibit as promote Phase II service to rural areas if the strategy succeeds in forcing small carriers to expend resources defending every well-intended action, and in causing PSAPs to become distrustful of their local carriers.

⁸ Comments, p. 4.

First Cellular requests that the Commission deny the objections of NENA, APCO and NASNA to First Cellular's petition for temporary waiver of Section 20.18(f) of the Commission's rules, and that a waiver and temporary extension of up to twenty-four months be granted as proposed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Daniel Ladmirault, an employee in the law offices of Lukas, Nace, Gutierrez & Sachs, Chartered, do hereby certify that I have on this 20th day of October, 2003, sent by U.S. mail, first-class delivery, a copy of the foregoing Southern Illinois RSA Partnership d/b/a First Cellular of Southern Illinois Reply Comments to NENA, APCO and NASNA to the following:

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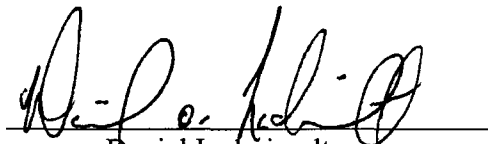
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